

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JACQUELINE RAWLINS,

Plaintiff,

**STIPULATION OF
SETTLEMENT AND ORDER OF
DISMISSAL**

-against-

CV 11-3173 (BMC)

THE CITY OF NEW YORK, DET. JORGE ULLOA
(SHIELD # 4388) "JANE DOE" AND "JOHN DOE"
1 'through' 5 inclusive, the names of the last
defendants being fictitious, the true names of the
defendants being unknown to the plaintiff.

Defendant(s).

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WHEREAS, plaintiff Jacqueline Rawlins commenced this action by filing a complaint on or about July 1, 2011 alleging violations of her federal civil and state common law rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, and in the action entitled The City of New York v. The Land and Building Known as 13 Putnam Avenue, Tax Block #981, Tax Lot #70, County of Kings, City and State of New York, et al., Index Numbers 23519/2011 and 4681/2011, in the Supreme Court of the State of New York, County of Kings, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced federal action is hereby dismissed against defendants, with prejudice, and without costs, expenses, or attorneys' fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiff Jacqueline Rawlins the sum of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS in full satisfaction of all claims, including claims for costs, expenses and attorney fees in this action. In consideration for the payment of this sum, plaintiff agrees to dismissal of all the claims against defendants City of New York and Jorge Ulloa, and to release the defendants, and any present or former employees and agents of the City of New York or any entity represented by the Office of the Corporation Counsel, from any and all liability, claims, or rights of action alleging a violation of plaintiff's civil rights, from the beginning of the world to the date of the General Release, including claims for costs, expenses, and attorneys' fees. Plaintiff Jacqueline Rawlins also agrees to waive any and all claims or rights of action resulting from the commencement and prosecution of The City of New York v. The Land and Building Known as 13 Putnam Avenue, Tax Block #981, Tax Lot #70, County of Kings, City and State of New York, et al., Index Numbers 23519/2011 and 4681/2011, in the Supreme Court of the State of New York, County of Kings, should any exist.

3. The City of New York, consents to vacating the default judgment against Jacqueline Rawlins on October 24, 2011 in Kings County Supreme Court in the matter of The City of New York v. The Land and Building Known as 13 Putnam Avenue, Tax Block #981, Tax Lot #70, County of Kings, City and State of New York, et al., Index Numbers 23519/2011 and 4681/2011. Jacqueline Rawlins consents to all prior relief granted in said action including the temporary restraining order. Furthermore, Jacqueline Rawlings agrees to permanently vacate the ground floor establishment located at 13 Putnam Avenue (hereafter the "subject premises")

within twenty-one (21) days from the date of the execution of this stipulation. Finally, Jacqueline Rawlins is prohibited from re-leasing the subject premises.

4. Plaintiff shall execute and deliver to defendant City's attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph 2 above and an Affidavit of Status of Liens. If Medicare has provided payment and/or benefits for any injury or condition that is the subject of this lawsuit, prior to tendering the requisite documents to effect this settlement, Plaintiff shall have notified Medicare and shall submit with the settlement documents a Medicare final demand letter for conditional payments. A Medicare Set-Aside Trust may also be required if future anticipated medical costs are found to be necessary pursuant to 42 U.S.C. §1395y(b) and 42 C.F.R. §§411.22 through 411.26.

5. Nothing contained herein shall be deemed to be an admission by the defendants that they in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

6. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

7. Plaintiff agrees to hold harmless the City of New York and defendant Jorge Ulloa regarding any liens or past and/or future Medicare payments, presently known or unknown in connection with this matter. If conditional and/or future anticipated Medicare payments have not been satisfied, defendant City reserves the right to issue a multiparty

settlement check, naming Medicare as a payee or to issue a check to Medicare directly based upon Medicare's final demand letter.

8. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York

January 19, 2012

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By: 

Philip S. Frank
Assistant Corporation Counsel

SO ORDERED:

1/25/12

s/ BMC


BRIAN M. COGAN, U.S.D.J.